

Attachment A

IN THE KING COUNTY SUPERIOR COURT
KING COUNTY, WASHINGTON STATE
SUMMONS

ELENA ARYSHTAEVA
6502 26th Avenue
Seattle, WA 98177

JOAN K. GRIFFIN, JUDGE

Plaintiff,

JUDGE

v.

TOMMY BAHAMA
400 Fairview Ave No.
Suite 488
Seattle, WA 98109,

Defendant.

SUMMONS

TO THE DEFENDANT: A lawsuit has been started against you in the above-entitled court by Elena Aryshtaeva. Plaintiff's claim is stated in the written complaint; a copy of this is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the claim by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice.

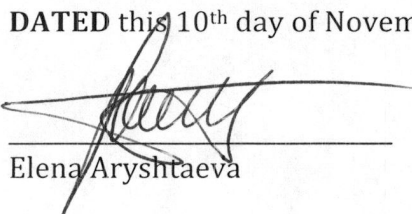
A default judgment is one where the plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and served upon the person signing this summons. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED this 10th day of November, 2020



Elena Aryshtaeva

IN THE KING COUNTY SUPERIOR COURT
KING COUNTY, WASHINGTON STATE

ELENA ARYSHTAEVA
6502 26th Avenue
Seattle, WA 98177

Plaintiff,

v.

TOMMY BAHAMA
400 Fairview Ave No.
Suite 488
Seattle, WA 98109,

Defendant.

)

CASE NO. _____

)

)

JUDGE _____

)

(JURY DEMAND FORTHCOMING)

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)

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COMPLAINT
JURISDICTION

1. This is a Court of general jurisdiction with authority to hear these claims as per my Right to Sue Letter.

VENUE

2. Venue is appropriate as Plaintiff worked in King County and Tommy Bahama is located in King County and the unlawful conduct occurred in King County.

PARTIES

3. Plaintiff is a professional graphic designer and art director residing in King County, State of Washington.

FACTS¹

4. Plaintiff was hired by Tommy Bahama as an Art Director in or about June, 2016. She was recognized as an exemplary employee by then Creative Services VP Andy Comer and many others.
5. Along the way she had positive performance reviews until the appointment of a blonde-haired American female, white.
6. Plaintiff is a dark-haired, First Generation Russian-American educated at the Art institute of Sea in graphic design, matriculating in 2012.
7. She performed short-term work at Beauty.com, earned a job at Nordstrom's as a graphic designer junior level. She then quickly earned a promotion to intermediate GS.
8. At Nordstrom's they saw her skill set as designer and photo art director on outside photo shoots and they began grooming her as Art Director as she could perceive her passion for art direction and knowledge of ecommerce industry and retail business that would be beneficial to the brand.
9. At some point Defendant's Digital Creative Director Mike Eustis invited her to start as Art Director, offering more money and obviously a better title.
10. Respondent hired her on or about June 2016.
11. She was moving on up and her skills were being recognized by then Creative Services VP Andy Comer. Mike Eustis reported to Comer until Eustis was eventually replaced by Stephanie Mennella as Complainant's manager.
12. Plaintiff was working in the same section as Kevin Uhl and Kimberly Doucette, two employees who faced unnecessary hardship at TB. She was senior to both of these individuals.

¹ It is unclear to Plaintiff what investigation the EEOC actually did on my Complaint. Plaintiff asserts that a full review of all salient facts will indicate liability.

13. After Mike Eustis was fired in 2018 Danny Mankin was slated to become replacement but he left to California.
14. With Mr. Eustis out of the picture Plaintiff worked directly for VP Creative Andy Comer who was briefly her report when she became pregnant, delivering her first child in May, 2018.
15. Mr. Comer recognized her skills and he wanted her to return from maternity leave. In a 30 May written Party Admission (Comer being a Vice President in the controlling class of the Company) Respondent stated:

“I also want you to know that I am aware of how much you contributed to this last photo shoot (Danny and Jodi have underlined that for me), and, beyond that, that I am aware of how talented and skilled you are as an art director and creative professional. I believe you have tremendous potential and I am committed to fostering it and providing growth opportunities for you. I am working on building that into some changes I plan on making to the team and will update you as those details get firmed up.”

Respondent took the gambit with appreciation:

Thank you so much Andy! I am so happy to hear these kind words! Means a lot to me to her(sic) that. It was really a great experience to collaborate with Danny and Jodi. I enjoyed that a lot. Thank you for an update and looking forward to hear about what is to come for our team :)
See Appendix A

16. Sadly, this never occurred because Respondent hired Stephanie Mennella, a blonde American woman to replace creative director Mike Eustis. Mennella was Complainant's direct report, yet she did not have the sort of experience on ecommerce project shoots that Plaintiff had: It is a fact that she did not have much experience with a large team of photo shoots for ecommerce – her experience with Vogue was more graphic design management, designing covers.
17. Ms. Mennella did not like Plaintiff and she found ways to rebut virtually any and all of her comments and suggestions at staff meetings.

18. Ms. Mennella's contempt for Plaintiff was manifest as noted in her successful bid for

Unemployment Compensation with respect to the work environment:

After meeting Stephanie, I noticed her dislike of my nationality, cultural identity, accent. She demonstrated her inability to accept me being culturally different even after I tried to explain her my heritage.

As an example, Stephanie requested me to be more "bubbly" using her exact words. She wanted me to smile more to her. I explained, that I am coming from a stoic culture, where people don't smile with wide open smile. It is culturally common and accepted to have a more serious demeanor, or smile with less teeth. I apologized for if my facial expression makes her uncomfortable and asked her to try to understand, that I was raised this way.

She requested that I change, if I wanted to be "a good team player"-her exact words. It was heart breaking and shocking for me, as I was always welcomed here in Washington by community, industry, neighbors the way I am, however knowing that the company has a history of age and gender discrimination, I was afraid to file any complaints. I knew that head of HR is not supportive of complaints of this kind, so I decided to do my best to accommodate Stephanie's request and try to smile more, even it made me feel forced to modify my facial expression in unnatural for me manner.

She forced me to change my own Annual Performance self-review and give my self lower scores even on the topics I don't normally deal with directly like budget. She said Oxford Industries prefer that employees self-score no higher than 3 or 3.5² if you think you do a good job. In her review of my performance she used not very professional language like "cold and individualistic" to describe my personality, which is completely untrue and has nothing to do with my work performance.

19. She forced Complainant to rewrite her own self-review to give herself low scores on everything -- even on topics that Plaintiff does not deal with in the workplace and

² She made Plaintiff mark herself lower than this but told other employees it was permissible to use that scale.

called Plaintiff "cold and individualistic" in annual performance review – an observation not shared by anyone else in the company.

20. She moved Complainant's desk from a window seat with a plenty of day light which were usually given to more senior team members to a desk close to a hallway. The window seat as an adverse employment action was given to a more junior team member (graphic designer) who also lacked seniority to Complainant and it was done with a rationale that will not withstand legal scrutiny.

21. The unprincipled and illegal discrimination went beyond Nationality and Ethnic makeup and descended into matters of pregnancy that became interwoven. Again, from Complainant's successful Unemployment Application:

Unfortunately, this pressure from her continued. One day my son got ill and had a fever. My Mother and my cousin, both Russian, suggested me to rub his skin with vodka, which was supposed to bring his fever down. I shared this with Stephanie, but shockingly, she started to laugh at me, and said "*It is very Russian of me.*" It was very humiliating and upsetting. I felt powerless to even explain to my manager, that it is inappropriate to use racial and nationalistic clashes towards anyone, but especially subordinates. I asked for advice from my coworkers, if I should mention it to anyone, but all my coworkers were unanimous, that will cause me being fired, as it's pretty common in the company to let people go, without proper reason.

22. The harassment continued next when Complainant was compelled to come to work despite being afflicted by clear-cut signs of COVID-19 pandemic. She emailed manager Stephanie Mennella explaining that she had a fever and did not feel comfortable to be around other employees, but was capable to perform her duties remotely. She did not have sick days left at the moment, so Manella said that Plaintiff would have to come into the office even though she had a cough and fever and did not feel well or take unpaid day which was financially adverse as she had a full time nanny on a salary).

23. After she saw Plaintiff at the office, she finally allowed her to leave early but only after Plaintiff had to prove to her physically that she was in fact, sick with COVID-

19/Coronavirus. It was known that Corona was already spreading over the world.

A physician verified Plaintiff's condition.

24. Lastly, HR Director Joan joined in the illegality by making up a false, pretextual excuse for termination while ignoring any and all principles of progressive discipline.

Joan asked her about a creative exercise (photo test) Complainant did with a photographer while they were working on a product photo shoot for Tommy Bahama. I answered that it was a test, the goal of which was to test lighting and a background to practice skills. Meanwhile others in the company have commended me for performing these exercises because they enhance my professionalism.

She said it is against the company rules because the photographer was on the clock and it is a self-promotion. Complainant said her previous manager Mike Eustis encouraged her to test to develop professionally. Joan's response was that Complainant was terminated. She asked why she did not get a warning. Joan said "We don't have to give you a warning." When Complainant mentioned that Stephanie Mennella needs a training to understand that jokes with cultural cliches are not appropriate and go against company rules, Joan said it's too late and expressed that she is not interested.

25. Wherefore Defendant wrongfully terminated Plaintiff on or about 6 March, 2020, with no written letter whatsoever.
26. The problem is (well one of the many problems facing the company) this: The very materials Tommy Bahama provided Plaintiff for her training and inculcation to the corporate culture specifically invited her to engage in this sort of activity; here is a screenshot for example:

30 DAYS	60 DAYS	90 DAYS
<p>BECOME FAMILIAR WITH ALL PHOTO & DIGITAL DAILY PROCESSES. (PROJECT TURN IN'S, PITCH BACKS, CREATIVE REVIEWS, POST PRODUCTION TIMELINES AND EXPECTATIONS)</p> <p>ESTABLISH RELATIONSHIPS WITH STUDIO PARTNERS, FREELANCE TALENT AND INTERNAL TEAM MATES AND CLIENTS.</p> <p>PROVIDE AND DOCUMENT DAILY PHOTOGRAPHY DIRECTION STYLE GUIDE IMPROVEMENTS.</p> <p>AID STYLING CREATIVE DIRECTOR IN DOCUMENTATION, DISCUSSION AND IMPLEMENTATION OF DIRECTION FOR UNDOCUMENTED APPAREL AND PRODUCT.</p>	<p>AUDIT SITE PHOTOGRAPHY AND RECOMMEND NEXT STEPS ON EXECUTION AND RECOMMENDED VIEWS. BEGIN WITH ON FIGURE.</p> <p>BEGIN TESTING ON FIGURE STUDIO EDITORIAL DIRECTION TO SUPPORT SEASONAL CAMPAIGNS AND SUPPORTING EXPERIENCES.</p> <p>CONTINUE TO HELP ELEVATE CAST AND CREW FOR PDP WORKING WITH AGENTS AND SHARING BACK RECOCO'S TO CREATIVE DIRECTORS FOR & NEXT STEPS.</p> <p>PARTNER WITH SOCIAL TEAM TO PROVIDE PREMIUM ON AND OFF FIGURE ASSETS</p>	<p>STYLE GUIDE 2.0 DELIVERY:</p> <p>INCLUDES ON FIGURE STYLING, MOVEMENT, HMU, LIGHTING DIAGRAMS, CROPPING, POST.</p> <p>* PARTNER WITH CD'S FOR PHOTO AND STYLING.</p> <p>ON FIGURE EDITORIAL LOOK AND FEEL ESTABLISHED FOR SP17</p> <p>BEGIN TESTING ON FIGURE VIDEO FOR PDP. BEGINNING WITH FIGURE.</p>

Here is screen shot from Complainant's self-evaluation while she was under management of Mike Eustis that clearly shows that creative testing was something that was performed to follow company's principles:

WE MAKE BIG IDEAS HAPPEN. Lead. Take smart risks. Don't fear failure.

This statement is very important to me, because I love to explore new ideas, play with concepts and translate my vision and aesthetic into art direction for digital platforms. Because I am passionate and curious about visual arts and fashion, it helps me to deeply enjoy that exploration. I am constantly looking for new opportunities to collaborate and find new ways to make the voice of our brand relevant, modern and exciting. I love to test with photographers (both product and On Figure editorials) and I think it is a great way for us to take smart risks in finding new ideas.

- Stay current on the design/fashion/lifestyle industries including global and consumer trends, assessing and communicating their potential impact to the business.
- Continuously seek out ways to improve process and capabilities of growing creative team.
- Anticipate and resolve creative challenges by using appropriate resources and/or solutions.
- Effectively communicate and collaborate with peers and leaders from all categories and departments as well as hired freelance to ensure project outcomes align with priorities and direction
- Provide "pre-press" supervision of photography to ensure color, composition and typographic placement for end use is considered during execution.

(Plaintiff's Job description)

27. As such, the termination is in violation of 42 USC §2000e on grounds of sex discrimination, pregnancy discrimination, Ethnic/National origin discrimination. These are but-for reasons for Complainant's termination rather than the proffered reason of self-promotion. Complaining Party was exceptionally competent, she was fired in March 2020 and the position remains open as of 8 June 2020, the stated reason was pretextual; bogus.

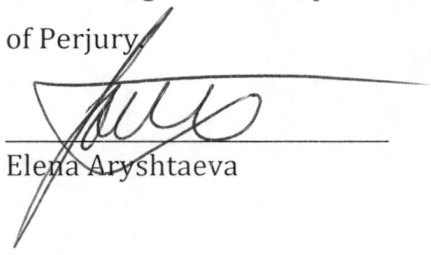
CLAIMS

1. Unlawful National Origin Discrimination per RCW §49.60.180
2. Unlawful Sex Discrimination (Pregnancy) per RCW §49.60.180

DEMANDS

1. Reinstatement to Position with all lost wages, pre & post judgment interest.
2. Permanent Injunctive Relief.
3. Compensatory Damages in an amount greater than \$25,000.00.
4. Punitive Damages in an amount to be determined by a Jury.

Plaintiff signs this Complaint with full candor and subject to the pains and penalties of Perjury.



Elena Aryshtaeva

2:50

Appendix A



AC

Andy >

Oh my goodness! He is absolutely gorgeous!!!!

I will definitely email the team (ASAP)

I also want you to know that I am aware of how much you contributed to this last photo shoot (Danny and Jodi have underlined that for me), and, beyond that, that I am aware of how talented and skilled you are as an art director and creative professional. I believe you have tremendous potential and I am committed to fostering it and providing growth opportunities for you. I am working on building that into some changes I plan on making to the team, and will update you as those details get firmed up.

May 30, 2018, 10:56 AM

Thank you so much, Andy! I am so happy to hear these kind words! Means a lot to me to hear that. It was really a great experience to collaborate with Danny and Jodi. I enjoyed that a lot. Thank you for an update and looking forward to hear about what is to come for our team :)



iMessage



2:50



Andy >

Jun 27, 2018, 8:52 PM

Hi Elena, thinking of you and wishing you, yours, and Eden Stone the best! I have landed on a new org structure and would like to present it to the team on Friday. Before I do, I want to give you a heads up, along the lines that we have discussed. Can I give you a call tomorrow?

Jun 28, 2018, 11:30 AM

Hi Andy! Thank you very much! Please do call me! If you have time later afternoon, it might be better- Sean will be coming home after 2 and can help with Eden, while we talk. Babies sometimes can be quite loud as you probably remember :)

Jun 28, 2018, 4:51 PM

Sorry, I missed your call! Let's talk around 5:30, when you are free.

Jul 25, 2018, 3:50 PM

Hi Andy, traffic is bad because of the game, I think. running a little late.

Aug 10, 2018, 9:42 PM



iMessage



4:23 ↵



Mike >

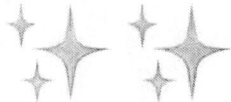
Jul 29, 2016, 5:02 PM

It's a wrap!!!

We got it done:)

Yes yes yesssssss!!!! So proud of you! Thank you!!! Feel good about all your amazing work!!

Thank you Mike! Can't wait to share!



Aug 9, 2016, 12:13 PM

Hi!

A couple emails sent today. I know today is probably bananas for you. Can you check email?

Also, how is workload this week? With all the Denim work happening? Would you like us to bring in Sarina if she's free to help?

Aug 9, 2016, 2:01 PM

Yes, going through emails now!

Took me some time to get here and



Text Message



4:26



ME

Mike >

I see. Thanks

I did not know the concept, sorry

Hi!

Don't be sorry! Please! There was a lot of last minute and holiday changes have been bananas. The work looks good and we'll use it! We'll just need to capture new assets for the mixer.

You're doing fantastic!

That's why I'd like to get ahead of Spring. It'll be great having you in the office for that. 🙌

Thank you!

Sep 28, 2016, 1:00 PM

Hey! Sorry to bug you! Any reselects from yesterday?

Sep 28, 2016, 10:09 PM

Nope! Thanks! 🙌

Yay! Thank you!pdp Feedback helped a lot!



Text Message



4:26



Mike >

Nope! Thanks! 🙌

Yay! Thank you!pdp Feedback helped a lot!

Elena, you're doing such a great job for us. It's been sonbust I haven't had the opportunity to express that. Thank you.

I'll be out Thurs afternoon, Friday and Monday, but on email for anything and all questions.

-M

PS. Will you be in the office all week next week? I'd like to arrange a team HH around 3:45 upstairs at MBar.

We have had a new contract designer join us for around 3 months, hopefully longer and it would be lovely for all of us to connect. Thinking next Thursday.

Talk tomorrow. Nite!

Sep 29, 2016, 7:34 AM

Thank you Mike! Yes! Planning on all week in the office! But hoping



Text Message



8:47



Mike >

Sounds good! I thank you!

Sep 11, 2017, 4:56 PM

Thank you so much for stopping by today! It was great to chat and have you in the studio with us!

Oh good!! I plan on visiting more and spending time as I'm able. You're doing such great work, Elena. I'm proud of you!

Oh gosh, and so happy about your new home! Fingers crossed until closing! Congratulations 🎈

Thank you so much!!!Such an exciting time for me and Sean!

Sep 15, 2017, 12:36 PM

Hey Mike! Happy Friday!!! I just sent you email with some of Daniels and Stacy's feedback and would love to hear if you agree/disagree before we make those requested changes! It's quite time sensitive 😞 thanks a lot in advance for your help!!!!:)))

I'll look in three shakes!



Text Message

